



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

HD:hd
Docket No: 05550-99
27 March 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: LT [REDACTED], MSC, US [REDACTED],
REVIEW OF NAVAL RECORD

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 dtd 26 Aug 99 w/attachments
(2) Memo for the Record dated 16 Mar 00
(3) DCNO(N131M3) ltr dtd 28 Sep 99
(4) PERS-85 memo dtd 2 Nov 99
(5) DCNO(N131M3) ltr dtd 14 Mar 00
(6) Memo for the Record dtd 22 Mar 00
(7) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that the applicable naval record be corrected to show the lineal position and date of rank in the grade of lieutenant he would have been assigned had his entry grade been calculated correctly. His current date of rank is 23 October 1993. Initially, he specifically requested a date of rank of 23 October 1996. The memorandum for the record at enclosure (2) shows he later amended his request to 2 October 1995. He further requested removal of his failure of selection before the Fiscal Year (FY) 00 Lieutenant Commander Staff Selection Board, so as to be considered by the selection board next convened to consider officers of his category for promotion to lieutenant commander as an officer who has not failed of selection to that grade.

2. The Board, consisting of Messrs. Chapman and Mazza and Ms. Madison, reviewed Petitioner's allegations of error and injustice on 23 March 2000, and pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Petitioner contends that his entry grade credit was miscalculated, in that he was given too much credit for his prior Naval Reserve service, which made him a mid-grade lieutenant upon entry to active duty with the Medical Service Corps, and an in-zone officer for consideration for promotion to lieutenant commander significantly earlier than he should have been. He says his current lieutenant date of rank is more senior than warranted.

c. In correspondence attached as enclosure (3), the Deputy Chief of Naval Operations (DCNO) N131M3 office with cognizance over the subject matter of this case commented to the effect that they concurred with the Bureau of Medicine and Surgery (BUMED) letter dated 19 August 1999, enclosed with Petitioner's application. The BUMED letter concluded that he should have been given three years, 11 months and 23 days of entry grade credit, rather than five years, 11 months and two days.

d. In correspondence attached as enclosure (4), PERS-85, the Navy Personnel Command office having cognizance over active duty promotions, has commented to the effect that Petitioner's request to remove his failure of selection before the FY 00 Lieutenant Commander Staff Selection Board should be approved. They further recommended returning the petition to DCNO (N131M5) "for specific date recomputation of entry grade credit."

e. In correspondence attached as enclosure (5), N131M5 recommended that Petitioner's date or rank be adjusted by the difference between the old and new entry grade credit dates, to establish his new date of rank as 2 October 1995.

f. The memorandum for the record at enclosure (6) reflects PERS-85 advised that had Petitioner's lieutenant date of rank been 2 October 1995 rather than 23 October 1993, he would not have been eligible to be considered at all by the FY 00 Staff Lieutenant Commander Selection Board; and that with a 2 October 1995 date of rank, he will be in a below-zone status for the FY 01 Staff Lieutenant Commander Selection Board, scheduled to convene on 15 May 2000.

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (3) through (6), the Board finds the existence of an injustice warranting the following corrective action:

RECOMMENDATION:

a. That Petitioner's naval record be corrected, where appropriate, to show his date of rank on his commission as a lieutenant, Medical Service Corps, U. S. Naval Reserve as 2 October 1995; and that his lineal precedence be adjusted accordingly.

b. That Petitioner's record be corrected so that he will be considered by the earliest possible selection board convened to consider officers of his category for promotion to

lieutenant commander as an officer who has not failed of selection for promotion to that grade.


c. That the record of proceedings of the FY 00 Lieutenant Commander Staff Selection Board be corrected to show Petitioner was not considered at all.

d. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

e. That any material directed to be removed from Petitioner's naval record be returned to this Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JONATHAN S. RUSKIN
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


Fa W. DEAN PFEIFFER
Executive Director



DEPARTMENT OF THE NAVY

NAVY PERSONNEL COMMAND

5720 INTEGRITY DRIVE

MILLINGTON TN 38055-0000

5420

Ser 85/249

2 Nov 99

MEMORANDUM FOR BCNR

Via: BUPERS/BCNR Coordinator

Subj: LT [REDACTED], MSC, USNR, [REDACTED]

Ref: (a) CNO (N131) ltr 1000 Ser N13M3/9U577130 of 28 Sep 99

Encl: (1) BCNR File

1. Based on the modification of [REDACTED]'s record addressed in reference (a), enclosure (1) is returned recommending approval of his request for removal of his failure of selection from the FY-00 Active Lieutenant Commander Staff Promotion Selection Board.

2. Recommend returning BCNR petition to CNO (N131M) for specific date recomputation of entry grade credit. BCNR petition must then be forwarded to PERS-854 for draft of new Officer Appointment Acceptance and Oath of Office (A&O). Once the aforementioned action is completed, date of rank adjustment shall be supported.

[REDACTED]
BCNR Liaison, Officer Promotions and
Enlisted Advancements Division

HD:hd
Docket No. 05550-99
16 March 2000

MEMORANDUM FOR THE RECORD

Subj: [REDACTED] ARZ, MSC, USNR

1. This memorandum for the record is to document a phone conversation between subject officer and this staff member, concerning SNO's petition with this Board.

2. Lieutenant [REDACTED] indicated to me that he was in communication with Lieutenant Commander [REDACTED] in the drafting of his advisory opinion dated 14 March 2000 and that he is in agreement with the contents of the advisory opinion and with the Pers-85 advisory opinion that his failure of selection be removed.

[REDACTED]

22 March 2000

MEMO FOR THE RECORD

Re: E [REDACTED], MSC, US [REDACTED]

PERS-85 [REDACTED] advises that had [REDACTED] date of rank been 2 Oct 95 rather than 23 Oct 93, he would not have been eligible to be considered at all by the FY 00 Staff LCDR Selection Board. She further advises that with a 2 Oct 95 date of rank, he will be in a below-zone status for the FY 01 Staff LCDR Selection Board, scheduled to convene on 15 May 00.

[REDACTED]
[REDACTED]
[REDACTED]

Head, Performance Section